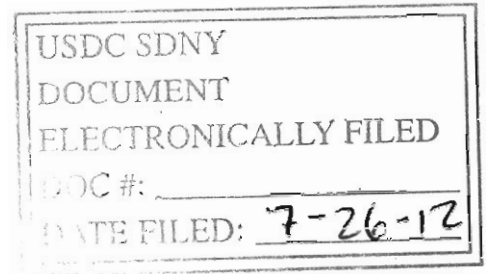


*The Law Offices of Shinishon Wexler, PC*  
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Fax (917) 512-6132  
swexleresq@gmail.com



June 26th, 2012

VIA EMAIL

Hon. Judge Crotty  
U.S. District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

RE: Katz, on behalf of himself and the class v. Extraordinary-11-cv-9391- Plaintiff's Request for a Motion for Discovery

Dear Judge Crotty:

I represent the Plaintiff in the above referenced matter. The Plaintiff brings this action on behalf of himself and all others similarly situated alleging violations of the Electronic Funds Transfer Act. (15 USC 1693 et seq.). Please accept this letter as a request to proceed with discovery.

On December 21st, 2011, this action was commenced with the filing of the summons and complaint. On December 29<sup>th</sup>, 2011 Defendant was served with the summons and complaint. Subsequently, co-defendants were also served but they were later dismissed after providing satisfactory proof that they were not responsible for the alleged violations in the complaint. On January 10<sup>th</sup>, 2012 the affidavit of service was filed with the Court. The Defendant has not answered the complaint. A Clerk's Certificate indicating default is attached. It is apparent that the Defendant does not intend to participate in the defense of this action.

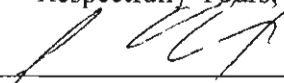
While the Defendant's default establishes the facts alleged in the complaint, Plaintiff needs to acquire certain additional information (via Rule 45 based discovery) in order to move for class certification pursuant to Rule 23. See *Williams v. Goldman & Steinberg, Inc.*, No. CV03-2132, 2006 WL 2053715, at \*1 (E.D.N.Y. July 21, 2006) and *DeNicola v. Asset Recovery Solutions, LLC*, 2011 U.S. Dist. LEXIS 61976 (E.D.N.Y.).

After acquiring the necessary information, Plaintiff intends to move for class certification (if appropriate) and a default judgment against Defendant. The determination as to whether the default judgment shall be entered on behalf of the individual Plaintiff or the class must await the class discovery. See, *Id.*

Plaintiff respectfully requests permission to proceed with discovery via Rule 45.

Thank you for your consideration of this matter.

Respectfully Yours,

  
\_\_\_\_\_  
Shimshon Wexler

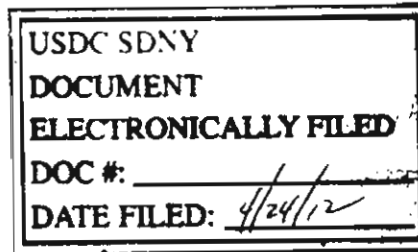
Cc: By Regular Mail to:

Extraordinary DVD Video Corp  
Apt. 3E 522 East 83<sup>rd</sup> St.  
New York, New York, 10028

and

Extraordinary DVD Video Corp.  
148 West 14<sup>th</sup> St.  
New York, NY 10011

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----X  
Yaakov Katz

Plaintiff,

- against -

Extraordinary DVD Video  
Corp.

Defendant.

11 Civ. 9391 (PAC )

CLERK'S CERTIFICATE

-----X  
I, RUBY J. KRAJICK, Clerk of the United States District Court for  
the Southern District of New York, do hereby certify that this action commenced on  
December 21st, 2011

with the filing of a summons and complaint, a copy of the summons and complaint was served  
EXTRAORDINARY DVD VIDEO CORP.  
on defendant by serving Amy Lesch at the office of the Secretary of State for the state of N.Y.

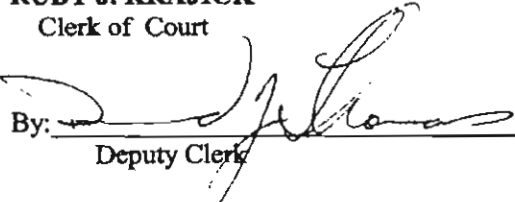
(STATE SPECIFICALLY HOW SERVICE WAS MADE ON DEFENDANT), and proof of  
such service thereof was filed on January 10th, 2012.

I further certify that the docket entries indicate that the defendant has not filed an  
answer or otherwise moved with respect to the complaint herein. The default of the defendant is  
hereby noted.

Dated: New York, New York

APRIL 24, 2012

RUBY J. KRAJICK  
Clerk of Court

By:   
Deputy Clerk